

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUY E. ALLEN,

Defendant.

4:11-CR-3087

ORDER

The defendant has filed a motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A), which permits a defendant (after exhausting administrative remedies) to move for reduction of a term of imprisonment based upon "extraordinary and compelling reasons." Filing 380. The defendant argues that he is serving an unusually long sentence and has served at least 10 years of his term of imprisonment, and that a change in the law has produced a gross disparity between the sentence being served and the sentence that would likely be imposed today, warranting compassionate release pursuant to U.S.S.G. § 1B1.13(b)(6). Filing 380.

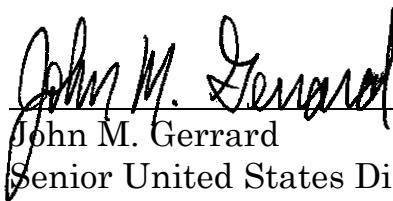
The Eighth Circuit has held, however, that despite § 1B1.13(b)(6), a nonretroactive change in sentencing law cannot, independently or in combination with other factors, constitute an "extraordinary and compelling reason" for a sentence reduction pursuant to § 3582(c)(1)(A). *United States v. Johnson*, No. 24-2393, 2025 WL 1949738, at *2 (8th Cir. July 16, 2025) (citing *United States v. Crandall*, 25 F.4th 582 (8th Cir. 2022); *United States v. Rodriguez-Mendez*, 65 F.4th 1000 (8th Cir. 2023); *Loper Bright Enters. v.*

Raimondo, 603 U.S. 369 (2024)). That authority forecloses the defendant's argument.¹ Accordingly,

IT IS ORDERED that the defendant's motion for compassionate release ([filing 380](#)) is denied.

Dated this 17th day of July, 2025.

BY THE COURT:



John M. Gerrard
Senior United States District Judge

¹ The Court notes that the United States Supreme Court has granted certiorari to resolve a circuit split on this issue. *Rutherford v. United States*, No. 24-820, 2025 WL 1603603 (U.S. June 6, 2025). Should the Supreme Court reject the Eighth Circuit's position and uphold § 1B1.13(b)(6), the defendant may be able to reassert his argument.